

RULEMAKING NOTICE FORM

Notice Number	Rule Number	Env-A 500
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: 3. Federal Authority: 4. Type of Action: Adoption Amendment Repeal Readoption Readoption w/amendment	RSA 125-C:4, I(a) 42 U.S.C. §§7411(c), 7412(l) X X

5. Short Title: Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 500 incorporates by reference certain federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and NESHAP for specific source categories (also known as MACT, Maximum Achievable Control Technology). These three groups of federal standards, codified as 40 CFR 60, 61, and 63, respectively, are currently in effect and applicable to numerous state sources. The NSPS establish emission limitations and work practice standards for various categories of sources that emit air pollutants; the standards apply to new sources and certain modified existing sources. The NESHAP and MACT establish emission limitations, control technology requirements, and work practice standards for various categories of new and existing sources that emit hazardous air pollutants. The Department is authorized to implement and enforce these standards through a delegation agreement with the U.S. Environmental Protection Agency (EPA). In accordance with the delegation agreement, the Department updates the chapter annually to adopt any new federal standards and to incorporate any revisions to existing standards. From July 1, 2008 to July 1, 2009, EPA made 11 amendments to the rules but promulgated no new standards. The rules are scheduled to expire April 5, 2010, so the Department is proposing to readopt the rules with amendments to Env-A 502.01 to clarify the language and to change the edition of the Code of Federal Regulations referenced in the rule from July 1, 2008 to July 1, 2009.

6. (b) Brief description of the groups affected:

Entities subject to this rule include new and modified sources that are in categories regulated by NSPS, and sources that emit hazardous air pollutants as those are regulated by NESHAP.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State / Federal Statute or Federal Regulation Implemented
Env-A 501.01(a)	RSA 125-C:4, I(a); 42 U.S.C. §7411(c); 40 CFR 60
Env-A 501.01(b)	RSA 125-C:4, I(a); 42 U.S.C. §7412(l); 40 CFR 61; 40 CFR 63
Env-A 502	RSA 125-C:4, I(a); 42 U.S.C. §7411(c); 40 CFR 60; 42 U.S.C. §7412(l); 40 CFR 61; 40 CFR 63
Env-A 503	RSA 125-C:4, I(a); 42 U.S.C. §7411(c); 40 CFR 60
Env-A 504	RSA 125-C:4, I(a); 42 U.S.C. §7412(l); 40 CFR 61
Env-A 505	RSA 125-C:4, I(a); 42 U.S.C. §7412(l); 40 CFR 63

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7. Contact person for copies and questions including requests to accommodate persons with disabilities:

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Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-7874
		Fax#:	271-7053

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, December 18, 2009**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, December 8, 2009 from 2:00 pm to 3:00 pm**

Place: **Room 111, DES Offices, 29 Hazen Drive, Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 09:201 , dated 11/04/09

See Attached.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

This rule incorporates by reference currently existing and applicable federal standards. Therefore, any political subdivision with a source subject to NSPS or NESHAP is already subject to those standards and will continue to be. The Department's readoption of these standards will not cause any additional sources to be subject to the standards. Accordingly, the proposed rule does not violate Part I, Article 28-a of the New Hampshire Constitution, because it does not assign any new, modified, or expanded programs or responsibilities to any political subdivision of the state in such a way as to increase local expenditures.